

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

JAMES LEE HARDAWAY,)	
)	
Plaintiff,)	
)	
v.)	No. 2:19-cv-00009-JPH-DLP
)	
JACKIE WEST-DENNING,)	
MICHAEL SMITH,)	
)	
Defendants.)	

ORDER DISCUSSING MOTION FOR PRELIMINARY INJUNCTION

James Lee Hardaway alleges that Dr. West-Denning and Mr. Smith were deliberately indifferent to his thrombosed hemorrhoids, a serious medical condition. On April 10, 2019, Mr. Hardaway filed a motion for preliminary injunction seeking to be seen by a colorectal specialist at Terre Haute Regional Hospital. Dkt. 14. On April 15, 2019, defendant Jackie West-Denning responded that Mr. Hardaway's motion should be denied because he failed to demonstrate either a likelihood of success on the merits, that legal remedies were inadequate, or that he would suffer irreparable harm without an injunction. Dkt. 18. Dr. West-Denning further stated that she no longer provides medical services at Wabash Valley Correctional Facility and therefore could not provide any injunctive relief.

On December 13, 2019, defendant Smith responded that Mr. Hardaway is receiving constitutionally adequate medical treatment and that, as a medical quality assurance manager for the State of Indiana, Mr. Smith is not a medical professional and cannot override the medical decisions of Mr. Hardaway's treating physicians. Dkt. 44.

In reply, Mr. Hardaway filed a motion compelling the Court to rule on his motion for preliminary injunction. That motion, dkt. [48], is **granted to the extent** this Order rules on his pending motion for preliminary injunction.

The Court need not assess the merits of Mr. Hardaway's motion because neither defendant can provide the injunctive relief he seeks. Dr. West-Denning no longer works for Wexford of Indiana, LLC, and does not provide medical treatment to Indiana Department of Correction inmates. Mr. Smith is not a medical professional and cannot order that Mr. Hardaway be seen by an outside colorectal specialist.

Therefore, Mr. Hardaway's motion for preliminary injunction, dkt. [14], is **denied**. To the extent he wishes to challenge the medical treatment he is receiving from his current providers, he should file a new civil rights complaint raising those claims after exhausting available administrative remedies.

SO ORDERED.

Date: 2/4/2020



James Patrick Hanlon
United States District Judge
Southern District of Indiana

Distribution:

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